



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 22 2003

OFFICE OF PETITIONS

Re application of: Aziz et al.

Attorney Docket No.:
SUN1P342R/P686RI

Application No.: 09/136,954

Examiner: Seal, J.

Filed: August 19, 1998

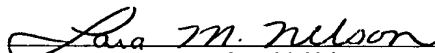
Group: 2131

Title: SYSTEM FOR SIGNATURELESS
TRANSMISSION AND RECEPTION OF DATA
PACKETS BETWEEN COMPUTER NETWORKS

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as first-class mail on December 15, 2003 in an envelope addressed to the Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450.

Signed:


Lara M. Nelson

PETITION REQUESTING WITHDRAWAL OF HOLDING OF ABANDONMENT

Mail Stop - Petition
Commissioner for Patents
P.O. Box 1450
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Technology Center 2100

Dear Sir:

This Petition Requesting Withdrawal of Holding of Abandonment is being filed in response to the Notice of Abandonment mailed November 17, 2003 in the above-referenced application. The application apparently became abandoned based on the premise that the Supplemental Declaration filed on May 28, 2003 was allegedly defective in some way. This holding is respectfully traversed.

The Supplemental Declaration did indicate that the Applicant had reviewed the amended claims

There are allegedly two bases for the holding of abandonment. The first was that the "review and understand" statement of paragraph 2 only refers to the filing. Specifically, there is an assertion that the Supplemental Declaration did not indicate that the Declarant has reviewed the claims as amended." This assertion is respectfully traversed. Specifically, paragraph 2 of the Declaration specifically states that "I have reviewed and understand the contents of the specification and claims of the above-identified application..." and the Supplemental Declarations were executed in May of 2003. It is respectfully submitted that the plain meaning of the quoted language is that what was reviewed was the claims of the application as they were pending at the time the Declaration was executed. Nothing in paragraph 2 even remotely suggest that the claims that were reviewed were the originally filed claims or any set other than the claims that were pending as of the date of the execution of the Declaration. As of the date of

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execution, the claims of the application clearly included the claims as amended and it was the amended claims that were reviewed.

Further, paragraph 5 of the Declaration specifically refers to all of the new claims that were arguably pending as of the date that the Declaration was signed (i.e., claims 18-43, 45-62 and 64-73) – it is noted that at the time the Declaration was prepared and filed, it was unclear to the undersigned whether the Amendment dated January 18, 2002 had been entered (that Amendment had sought to cancel claims 32-33, 40-53 and 60-68).

In view of the foregoing, it is respectfully submitted that the “review and understand” basis for refusing entry of the Supplemental Declaration is improper.

A Handwritten Correction of an Inventor Address is not an appropriate basis for refusing entry of a Supplemental Declaration

The second basis for refusing entry of the Supplemental Declaration was that the Declaration included handwritten modifications that were not initialed. Looking at our copies of the Declaration filed, it appears that the ONLY subject matter that was handwritten altered the address of inventor Ashar Aziz. It is respectfully submitted that the inventor address is NOT required in a Declaration and is immaterial to the contents of the Declaration. If the Office feels that the handwritten changes to an immaterial part of a Declaration (i.e., an inventor's address) are inappropriate, it is respectfully submitted that the proper response is to simply ignore the handwritten changes and allow entry of the Supplemental Declaration. It is respectfully submitted that it is NOT appropriate to deem such a Declaration non-responsive and hold the case abandoned.

The Supplemental Declaration fully addressed all of the Issues Raised by the Examiner

In the Office Action dated December 16, 2002, the only reason that the Examiner provided for asserting that the Reissue Declaration was defective was because it failed to specifically point out at least one error being relied upon as a basis for the Reissue. In the comments on part 6 of the Supplemental Declaration that accompanied the Notice of Abandonment, it was pointed out that the last sentence of Part 6 of the Reissue Declaration fulfills the requirement of an error in the sense of a Reissue. Thus, it is respectfully submitted that the Supplemental Declaration fully addressed ALL of the issues that were raised in the Final Rejection. Thus, it is respectfully submitted that the Supplemental Declaration that was filed was a proper response to the then outstanding Office Action. As such, the Supplemental Declaration should be entered. If for any reason the Office believes that there are other reasons for rejection of the claims, then the proper approach would be to withdraw the abandonment and provided an office action that articulates the reasons for their rejections and/or objections. Thus, even if the office were to determine that the Supplemental Declaration is somehow still objectionable, since the Supplemental Declaration fully addressed all of the issues set forth in the outstanding final rejection, it is respectfully submitted that the proper response would be to withdraw the outstanding final rejection and enter a new rejection.

The Final Rejection dated December 16, 2001 was not a proper Final Rejection

It is also respectfully submitted that the Final Rejection dated December 16, 2001 was not a proper Final Rejection. Specifically, the Final Rejection was based on a single issue (the

Reissue Declaration) that was raised for the FIRST time in the final rejection. The previous rejection had not required a Supplemental Declaration and the need for the Supplemental Declaration did not arise from any amendments that were filed in response to an earlier rejection.

In view of all of the foregoing, it is respectfully submitted that: (1) the Supplemental Declaration mailed on May 28, 2003 should be entered; (2) that the holding of abandonment should be withdrawn; (3) that the case should be passed to issue; and (4) if for any reason the Office believes that this case is not in condition for allowance, a new Office Action should be issued that clearly explains the basis for any rejections or objections to the application as it currently stands.

Enclosed is our Check No. in the amount of \$130.00 for the filing of this Petition. If any additional fee are due the Commissioner is authorized to charge such fees to Deposit Account No. 50-0388 (Order No. SUN1P342R)

Respectfully submitted,


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